

REMARKS/ARGUMENTS

The applicant has concurrently filed a Request for Continued Examination.

This letter is responsive to the Office Action dated April 3, 2006.

By this response, the applicant has cancelled claims 21 and 25 without prejudice, amended claims 17, 22, 24, 26, and 27 and inserted new claims 30-36. There are now 18 claims on file including 3 independent claims. Accordingly, no excess claim fees are required.

Claim 22

The Examiner rejected claims 22-25, 27 and 28 under 35 U.S.C. 103(a) as being unpatentable over Ivarson et al. in view of Gausling et al., and further in view of Swetish (US 5,984,157).

In relation to claim 22, the Examiner has stated that Ivarson et al. and Gausling et al. disclose the claimed invention except for at least one cinch strap connected to the backpack body for cinching the back facing face and the away-facing face towards each other. The Examiner appears to accept that Gausling et al. does not disclose an adjustable shoulder strap cinch strap that is attached to the away-facing face. The Examiner relied upon Swetish as disclosing adjustable shoulder strap cinch straps. The Examiner states that it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine these elements.

By this response, the applicant has amended claim 22 to clarify that the first end of the adjustable shoulder strap cinch strap of the present invention is on the away-facing face of the backpack body and extends over the top of the backpack body. Accordingly, the one shoulder strap cinch strap extends between the away-facing face and the shoulder

strap. This positioning allows the wearer to draw a small load in the backpack upward and inward toward the lumbar region without squishing the load by tightening the cinch straps.

Neither of the cited references teach straps that perform this function. Of the cited references, only Swetish is relied upon to teach shoulder strap cinch straps. The adjustable shoulder strap cinch straps in Swetish are attached to the backpack body by a first end on the back-facing face, and not on the away-facing face, as the straps in Swetish. Therefore, use of the shoulder strap cinch straps of Swetish would not draw the load of the backpack upward and inward as taught by the applicant. By acting on the away facing face, the cinch straps assist in maintaining the load in the backpack in a more ergonomic position as the load is drawn inwardly. In contrast, applying tension of the back facing back would draw the back facing face towards the back of the person wearing the back pack.

The Examiner has not provided any reference that teaches the use of an cinch strap for a shoulder strap that extends over the top of a backpack. Further, none of the references relied upon by the examiner provide any motivation for providing a shoulder strap cinch strap that extends over the top of the backpack to the away-facing face. Gausling states that a strap may be adjustable. However, this reference provides no teaching or motivation for the construction claimed by the applicant. Accordingly, the applicant submits that the backpack claimed in the amended claim 22 is not obvious in view of the references cited and is patentable over them.

The applicant submits that claims 23-25, 27 and 28 are not obvious in view of these references and are patentable over them, at least by way of their dependency on claim 22.

Claims 17, 26 and 30

In the office action, the Examiner rejected claims 17, 18, 19 and 21 under 35 U.S.C. 103(a) as being unpatentable over Iverson et al. (US 6,474,524) in view of Gausling et al. (US 6,164,509). The applicant has amended claim 17 to specify that the at least one cinch strap is connected to said backpack body and extends across the closure member, the cinch strap including a separation clip that is separable whereby unobstructed access is provided to the storage compartment that is openable by the closure member when the separation clip is separated.

The Examiner rejected claim 26 under 35 U.S.C. 103(a) as being unpatentable over the art as applied above and further in view of Clements (US 6,024,265). Clements teaches the use of numerous cinch straps on its various surfaces, some of which are separable into two portions. The Examiner stated that it would be obvious to a person skilled in the art to combine the separable cinch straps of Clements with the backpack of claim 22.

The applicant submits that claims 17, 26 and 30 are not obvious in view of the references and is patentable over them.

In accordance with an embodiment as set out in these claims, a top-opening backpack has a closure member, such as a zipper, which reversibly closes the top opening. The backpack has a separable shoulder strap cinch strap that extends over the zipper, e.g., the cinch strap has a first end on the away-facing face of the backpack body and a second end on a shoulder strap. Therefore, when the backpack is opened, the cinch strap will extend across the opening. In order to facilitate access to the opening, the wearer can separate the two parts of the cinch strap, and can then reattach the parts of the cinch strap to restore the load-distributing function of the cinch straps when the top opening need no longer be accessed.

Clements does not disclose a cinch strap that extends over a top opening in a backpack. The Examiner stated that the structure of former claim 26 would have been obvious since cinch straps with buckles are of an old design and could have been used

in Iverson et al if Iverson et al used the straps of Gausling. Accordingly, in order to argue that claim 26 was obvious, a person skilled in the art would first have to modify the backpack of Iverson to include straps from Gausling. Next, the person skilled in the art would have to amend the straps of Gausling to include buckles as taught by Clements. Finally, the person skilled in the art would have to position the buckles to permit the portion of the cinch strap that extends across the top opening of a backpack to be separated.

The applicant notes that Iverson has a priority date subsequent to the filing date or priority date of Gausling and Clements. Therefore, Iverson is the newest reference relied upon by the Examiner. The inventor of Iverson did not consider providing openable cinch straps that extend across a zippered opening in a backpack despite the assertion by the Examiner that cinch strap/buckle combinations are well known in the art. Instead, Iverson provided a standard shoulder strap.

If a person skilled in the art were to modify the straps of Gausling in view of Clements, the applicant submits that the person would amend the straps by changing buckle 422 of Gausling to a releasable buckle as taught by Clements. There would be no motivation to provide the releasable buckle as taught by Clements in the portion of the strap that extends over the top panel of Gausling. Accordingly, even if the references were combined, the claimed backpack would not be obtained. The applicant respectfully submits that the Examiner has not provided any teaching or motivation for providing an openable buckle or the like in the portion of a cinch strap that extends over a zipper provided in the top of a backpack so that, in the language of claim 17, "unobstructed access is provided to the storage compartment".


The applicant has introduced new dependent claims 31-36. The applicant submits that claims 31-36 are not obvious in view of the references and are patentable over them at least by way of their dependency on claim 30.

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Amdt. Dated August 1, 2006
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Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
BERESKIN & PARR

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